A/18 5-28

App. F. 1X-4

1926.

File No. 25-26

Previous References

(Court.)

Serial Nos. 1 – 2

Th 18-23-16.

Later References

99-27(1-2)

104-28/1-4.

H. Depm. 4841

PRESERVED

Prem

General and Revenue Secretariat.

Serial Nos. Two

Part B for November 1927

SUBJECT

Refund of criminal fines arising in the Velandur Jaghir to the Jaghirdar.

G.O. No P. 2327 2321-29 5-11-27 Note of the Accountant General directing that the Jaghirdar's claim to criminal fines should be limited to those realised in the Jaghir Courts and that the bills should be disposed of accordingly

Madras 17-11-27

G. R. S. III—1] 1926-27

GENERAL AND REVENUE SECRETARIAT.

Courts

NOTES.

File No. 257.26.

FILE HEADING.

Refund of Criminal fines arising in the Islands Jaghir to the Jaghirdar.

From

The Dy. Supdt

No. 761.26 Dated 23.2.27 Received 26.2.27

Diary No. 340	Enclos. nefile Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the observations of the Comptroller in the matter of the refund of Criminal fines levied in Jaghir Cases to the Islanders Jaghirdar and requests sanction to the refund bill under the circumstances stated.

NOTES AND ORDERS.

Govt

In Go. No 2115-23 of 20-7-1870, the Board Commissioners authorised the payment to the Jaghirdar monthly of the collections made within the Jaghir under the heads Civil and Criminal Courts, Registration Offices and Local Police, the same being duly entered in the accounts. The payments will have effect from the

NOTES—First Sheet.

WD 1881—GPB—30,000—1-8-21

WD 01229—GPB—37,500—1
App. F. III—2)

General and Revenue Secretariat

File No. 25/ of 1926

Serial No.

Commencement of the current year (1870-71) the head civil and criminal courts receipts include fines and forfeitures.

2) In subsequent years also, the receipts from court fee stamps and general stamps and fees and fines seem to have been refunded to the Tahsildar, as the refund bill now sent claims payment from the year 1913-14.

3. Under the authority of the above Government orders, the Tahsildar has now prepared a refund bill for Rs 1058/- which are criminal fines levied in Tahsil courts for the years 1913-14 to 1922-23. The Comptroller has taken 3 objections to the bill.

(1) The above Court's order does not clearly indicate under what circumstances the refund has to be allowed.

(2) The claim extends to as far back as 1913 and as the authority for refund is not definite orders of what maybe disallowed.

(3) The certificate of refund having been noted in the departmental accounts is not forwarded.

4). As regards 1st objection, kind reference is invited to paras 3 to 4 of the Memorandum wherefrom it can be surmised that the Tahsildar was given these allowances as a sort of compensation for the expenses he incurred for maintaining Courts, Office & Registration

NOTE—Contn. Sheet

3950

WD 01229—GPB—37,500—1.9
App. F. III—2]

General and Revenue Secretariat

No. File No. 457 of 1926

Serial No.

The comptroller's objection would does not seem to be correct and he has been left no discretion as to the circumstances under which fines levied have to be refunded.

(2) As regards the 2nd objection, the comptroller's position seems correct and fresh orders seem necessary as the claim relates back to 1913. It is not known why the claim was not preferred early. From the statement it appears that in some years there have been only one or two items. Perhaps they were all consolidated now and a claim preferred.

The third objection of the comptroller has to be explained by the Dy. The explanation given by the Dy does not seem to touch the comptroller's objection and it is suggested that a receipt for the refund made may be obtained and preserved permanently.

Under the circumstances, the claim for refund may be sanctioned and the comptroller intimated.

Subs proposed. The Fin Secty may perhaps be consulted re Comptr's objections nos 2 & 3. & the Dy Supdt's explanations

31/5/27 SPA/ 9/4

WD 01229—GPB—37,500—1-9-26
App. F. III—2]

General and Revenue Secretariat

Ag. File No. 287 of 1926

Serial No.

7 The Jaghirdar of Yelandur has sent in a refund Bill for Rs.1058 of criminal fines levied in Jaghir cases. A perusal of the bill (Flag R) shows that the ~~reports~~ Courts in which these fines were levied are - those located in Chamarajnagar, T-Narsipur, Nanjangud and Yelandur. When the bill was sent to the Comptroller he took objection on three grounds, one of them being that the extract from the Chief Commissioner's order does not clearly indicate under what circumstances the refund has to be allowed.

10 The claim for the refund is based on the Chief Commissioner's Order No.2115-23 dated 28th July -- 1870 which runs as follows:-

"The Chief Commissioner therefore authorises the payment to the Jaghirdar monthly of the collections made within his Jaghir under the heads "the Civil and Criminal Courts, Registration office and local police" the same being duly entered in the accounts The payments will have effect from the commencement of the current year 1870-71". An extract of this letter is given in para 4 of the memorandum (Flag Q)

11 The memorandum (Flag Q) contains a brief -- history of the right of the Jaghirdar of Yelandur to stamp fees, Registration fees, Police and Magisterial fines and forfeiture. The view expressed in the memorandum may be summarised as follows:-

(i) that in the sannad granted to the Jaghirdar the realisations from court fees and fines were not granted to him and in the absence of such a grant the Jaghirdar is not entitled to those fees and fines

(ii) that in consideration of the fact that the Jaghirdar was maintaining the courts established in

NOTE—Contn. Sheet

Serial No.

the Jaghir, he was allowed to take the realisations of fees in those courts although as a matter of -- fact he was not entitled to them.

(iii) the general question of his right to these stamp fees was kept open for reconsideration.

(2) With regard to the realisations from the court fees the matter was recently gone into in G.O.No. Fl.7097-100/St.18-25-16 dated 12th June 1926 and Government directed that with effect from 1st July 1926 the Jaghirdar's claim to court fee stamps -- should be limited to what is realised in the Jaghir courts alone and from thesame date he was permitted to withdraw the staff which he was maintaining at his cost in the Special Magistrates Courts at Nanja gud and Mysore. It was also ordered that the -- Jaghirdar should maintain both the Amildar's court and the Bench Court in view of the fact ~~xx~~ that he realised the revenue of those courts.

(3) With regard to fines, the Chief Commissioner's order of 1870 (Flag C) authorises the payment to the Jaghirdar only the collections made within his Jaghir. This clearly indicates that collections made outside the Jaghir cannot be made over to him. It will be seen from the refund bill (Flag B) that an entry is made therein stating that under the -- Chief Commissioner's order of 1870 the fines levied in cases arising within the Jaghir area are to be made over to the Jaghirdar. This interpretation of the order of 1870 is not correct. The order -- simply states that the collection made within the Jaghir were to be paid to the Jaghirdar and not of collections made outside the Jaghir though they --

Serial No.

relate to cases arising within the Jaghir. A perusal of the para 5 of the memorandum (Flag Q) shows that whatever was realised within the Jaghir by the Jaghirdar in cash was retained by him with the other revenue of the estate and so there was no difficulty with regard to such realisations, but the difficulty was only with regard to court fee stamps supplied from the Mysore Treasury in ascertaining the exact amount payable to the Jaghi Jaghirdar. This shows that the question of refund could only have arisen in respect of court - fee stamps and not in respect of realisations in cash.

(4) It is therefore doubtful whether such fines realised outside the Jaghir were ever before refunded to the Jaghirdar. In fact, the Deputy Commissioner of Mysore District, in his letter dated 25th January 1927 to the Comptroller (Flag says in para 5 that there was no information abo the date of the last refund. It is therefore - submitted that under the Chief Commissioner's or of 1870 the Jaghirdar is not entitled to the fir realised outside the Jaghir area and that in th absence of clear evidence to show that such fi were being refunded from 1870-71 the Jaghirdar not entitled to a refund of fines.

(5) In view of the order of 12th June 1926 the Jaghirdar is perhaps entitled to the realisati of fines in the Amildar's courtand the Bench M trate's court established at Yelandur under the authority of the Chief Commissioner's order of but the broad question remains viz., whether

NOTE—Contn. Sheet

Serial No.

Jaghirdar would be entitled to the realisations of fines even in those courts. In this connection kind attention is invited to paragraphs 15 and 16 of the memorandum.

Secy L.D) 6/4

15) The correspondence on the subject as disclosed in (7)(a) shows clearly that the Jaghirdar was allowed arrears on the score of convenience & not on any right possessed by him in virtue of the grant, to collect fines levied in the courts established in his Jaghir & maintained by him, & that the sovereign right of the State to impose fines & of collecting the same from the subjects has not been surrendered by the grant made to him, & that the collections should be confined within the limits of the Jaghir in consideration of his meeting the cost of establishment of the Courts.

17) In this view the Jaghirdar is not entitled to the fines levied by Courts located at Chamarajnagar, T. Narsipur, & Nanjangud.

1st Member. 8/4

10447 2/4

I agree Please submit to Dewan. Both these Jaghirs have been enquired more 8/4

NOTE—Contn. Sheet

DEWAN'S OFFICE.
Received on
12 APR. 1927
No. 8111

Serial No.

A1 ... seem to be vacated; & the whole question has to be reexamined some time.

Dewan. 10/4

19 I quite agree. 17.4.27

20 Send with a draft for consideration

20/4/27 21 Please type the draft as revised 30/4

22 Send with a typed draft as revised

30/4/27 30/4

Secy L.D. 3/5

Revised draft may be approved 3/5

23. 1st Memo... I agree. Submit to Dewan after return 5/5

Law Secy will please examine & call for a note if necessary 5/5

NOTE—Contd. Sheet No. 2

App. F. III—2]

General and Revenue Secretariat.

DEW... OFFICE.
... on
27 MAY 1927
... No. 4120

Serial No.

3900 99

File No. 257 of 1926

A note is submitted regarding the administration of Yelandur Jaghir.

In the present file, the question as to the refund of fines is dealt with. Submitted with reference to para 23

Dewan

Hon'ble Chief Sec[retary]

Hon'ble Members of Council

19.5.

21/5

22/5/27

23.5

26/5/27

27/5

The Jaghirdar, it seems to me, is entitled to a refund of fines collected within the Jaghir only so long as he bears the cost of establishments required. I have touched upon this point in the alternative draft.

OFFICE OF THE SECRETARY TO COUNCIL
21 MAY 1927
No. 6994

NOTE —Contn. sheet

GPB—5,000—30-3-27

3900/P

10

App. F. III—2]

General and Revenue Secretariat.

File No. 857 of 1926

Serial No.

Govt. will have to consider by & bye the desirability of relieving the Jaghirdars of this burden simultaneously with the discontinuance of these subsidy-cum-Concessions, the Jaghirdars' contribution to which being limited more or less to the Customs Collections. This is the loss of Land revenue.

JM
5.7.27

238/7/7

1st Memo.

6.7

6.7

Please note the draft as revised is legally all right.

8/7

8/7

8/7

The question of refund of fees collected by a court maintained at the expense of Jaghirdar was decided by the Chief Commissioner solely on the ground that the cost incurred for its maintenance was met by the Jaghirdar & on the ground of convenience.

This is an arrangement arrived at on the administrative side for the convenience of the parties without conceding the Sovereign rights of the Maharaja. In fact the papers on the subject do not show that this question was ever present to the mind of the Chief Commissioner.

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

General and Revenue Secretariat.

No. File No. 857 of 1926.

Serial No.

When the Sanad does not convey Sovereign rights — in parenthesis it may be observed that administrations of Civil & Criminal justice is one of the important functions of a Sovereign, it may not be proper for Govt to concede the position that Jaghirdar has established the Courts of law maintaining them in his own rights.

In fact there is no evidence to prove that the Jaghirdar established the Court within his Jaghir.

By consent of the Chief Court he was allowed to collect the fines.

Even this right may in law be denied

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

P.T.O.

General and Revenue Secretariat. | No File No. 257 of 1926.

Serial No.

In this connection I may perhaps be permitted to invite kind attention to a very valuable & weighty opinion expressed by late Hon'ble Gopalrao & Sir Richard Meade in the printed memorandum (HQ).

It is shewn therein that the Sanad does not confer any Sovereign rights of Collecting the realization of Court fees, Stamps & Registration fees, that the argument based on the ground of maintaining the Establishments is untenable in consequence of Suppressing accounts showing an increase of 4000 odd Star Pagodas over 14000 Pagodas being the amount shown as realized in 1806 immediately before the grant; that the policy of allowing the Jaghirdar to collect fines etc which are State Revenues is highly dangerous in principle leading to an establishment of an independent principality within the Mysore State; that the sanction of Govt of India was not obtained by late Hon'ble Bowring for allowing such appropriations by the Jaghirdar, & that the whole question should be re-examined & claim negatived.

40 Sir Richard Meade in passing final orders on the subject in 1874 observes that the order granting the collections can be revoked

NOTE—Contn. sheet

WD 0824—GPB—60,000—24-5-27

General and Revenue Secretariat. File No. 257 of 1926.

Serial No.

at any time & the question can be reconsidered hereafter & that sanction was given to the measure merely on the score of convenience.

That Sir Richard J. Meade was personally not in favour of such a measure is evident from his minute dated 26th March 1870 recorded para. 7 at page 3 (H Q).

Later Mr Thumboo Chetty expressed in 1878 that the question may be opened & considered. (Note p. 8)

~~Quoted in G.O. dated 14-7-1926, ordered~~

The question of refund~~ing~~ the fines also realized in Velandas Courts may also perhaps be re-examined now. ~~if not considered~~ ~~it necessary~~

4) As the claim now put forward relates to all fines, ~~constituted~~ realized in Local as well as Courts established by Govt outside Velandas to try cases arising within Velandas is clearly untenable, it is enough, I think, to say in the proposed order that the Govt regret their inability to accede to the request of the Rajahs for refund of fines etc as claimed by them. But the alternative draft is not open to any legal objection if the question is not / 2 members intended to be reopened by Govt. 14-7

593/917

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

3700 g26 - 14

App. F. III—2]

General and Revenue Secretariat.

File No. 257 P. of 1926

Serial No.

45

The Law Sec^y may please take this file in person to Dewan & obtain his orders. I have no objection to the forms as appd by Dewan — but that also gives away in a manner Sovaign powers if fines are collected in them the Jaghir; & leaves out the — imprt point that the order, granting the right was one of Convenience that cobe withdrawn at any time; & not any delegation of Sovaign powers; & hence perhaps it might be more expedient merely to Express regret that Govt cd not accede to the request, without going into merits.

Dewan 20/7/27

21/7

8/ 21.7.

46

Personally submitted the file to the Dewan who instructed me to send the file to the Registrar (for placing) the following question in Council. The question of withdrawing the right of collecting fines levied by courts established within the Jaghir granted for convenience on the ground of Jaghirdar maintaining order may be considered in council.

Chief Sec^y with Comp^ts

20/8

26/8

CHIEF SECRETARY. 26 AUG. 1927 C.P

NOTE—Contn. sheet nil

25/8/27

WD 0824—GPB—60,000—24-5-27

Subject. -

Claim of the Jaghirdar of Yelandur to criminal fines levied in the Jaghir cases during the years 1913-14 to 1922-23

....

OPINION OF THE COUNCIL.

Note

The claim may be disposed of according to the principles laid down in para 4 of G.O No 7097-100 dated 12th June 1926.

Secretary, Law Dept with Compts

App. F. III–92

General and Revenue Secretariat.

File No. 75 of 192 6.

Serial No.

DEWAN'S OFFICE.
Received on
29. OCT. 1927
Reg. No. 9886

Alternative Draft subd.

The Draft assume that the pending cases should also be disposed of on the principle enunciated, unlike the Court fee refund cases in regard to which the principle was ordered to be applied with effect from 1.7.1926.

Appr 19/10

I think a Go. is necessary. Please type the draft Go.

27/10

25/10

Subd with a typed draft Go. for Consideration.

Sec (L.D.) 1st Memo / Draft may be approved

27/10

27/10

Submitted to Dewan for perusal

28/10

Dewan.

25/10

29-10-27

28/10

31.10.27

1 member

WD 0824—GPB—60,000—24-5-27

1806 17

App. F. III—2]

General and Revenue Secretariat. | No. File No. 257 of 1926

Serial No.	
2	To the Dr maple Dyane The Comptroller No OP2321-2 dt 5-11-27. Directs that the Jaghirdar's claim to criminal fines shd be limited to those realised in the Jaghir Courts & that the refund bill sent by the Jaghirdar shd be disposed accordingly

16/11

NOTE.—Contn. sheet

WD 0824—GPB—60,000—24-5-27

No.257-26-1 | 3902 pf.

No.G1-761-26/Misc. Office of the District Magistrate,
Mysore District,
Dated Mysore, 23rd February 1927.

FINANCIAL SECRETARIAT 28. FEB. 1927 DIARY NO. 3582

19 — 19

From

A.V. Ramanathan, Esq., B.A.,
District Magistrate, Mysore District.

To

B. Nagappa, Esq., Bar-at-law.,
Secretary to the Government of Mysore
Law Department, B a n g a l o r e.

Subject:- Criminal fines - Yelandur Jaghir cases - refund.

Sir,

I have the honour to state that the refund of criminal fines levied in Jaghir cases is due to the Jaghirdar as per Chief Commissioner's proceedings No.2115-23 dated 20th July 1910 - flag X and that when the refund bill for Rs.1058/- was forwarded to the Comptroller in Mysore for audit, the same has been returned with the following observations viz,

(1) That the extract from the Chief Commissioner's order does not clearly indicate under what circumstances the refund has to be allowed and

(2) that the claim extends to the period so far back as 1913 and as the authority for the refund is not definite, orders of Government may be kindly obtained in the matter and

(3) that the certificate of refund having been noted in the departmental accounts is not furnished.

The extract from the Chief Commissioner's order is clear. Payments of criminal fines credited were ordered to take effect from the commencement of the year 1870-71, but there is no information about the date of last refund.

Refunds made to parties is noted in departmental

P.T.O.

departmental accounts but refunds made to the Jaghirdar under the authority of the said Government Order does not come under ordinary refunds and no certificate can be given but a receipt can be taken from the Jaghirdar and preserved permanently in this office or in the Comptroller's office.

I request that orders of Government may kindly be obtained sanctioning the refund.

I have the honour to be,

Sir,

Your most obedient servant,

District Magistrate,

Mysore District.

CMS.

Proceedings of the Govt. of H.H.
the Maharaja of Mysore.

S.O.

C/257-26-2

Read:-

Letter No Gl.761-26 dated 23rd February 1927 from the District Magistrate, Mysore.

(Here enter the letter in full).

Order No.P.7321-2

Dated Bangalore, 5-11- 1927.

The Jaghirdar of Yelandur has sent a refund bill for Rs.1058/- on account of criminal fines levied in Jaghir cases during the years 1913-14 to 1922-23 in the Magistrates' Courts at Chamarajanagar, T.Narasipur, Nanjangud and Yelandur. The Comptroller has taken objection to the refund bill on the ground, among others, that the authority for refund quoted in the bill, viz., Chief Commissioner's order of 1870, does not clearly indicate under what circumstances the refund has to be allowed.

2. The claim for the refund is based on the Chief Commissioner's Order No. 2115-23 dated 28-7-1870 which runs as follows:-

"The Chief Commissioner authorises the payment to the Jaghirdar of the -- collection made within his Jaghir under the heads civil and criminal courts, Registration office and the local Police, the same being duly entered in the --

accounts. The payment will have effect from the commencement of the current year 1870-71."

3. The Chief Commissioner's order having ~~thus~~ authorised the payment to the Jaghirdar of the collections made within the Jaghir, there is no justification for the payment of collections made outside the Jaghir, simply on the ground that such collections were made in cases arising within the Jaghir. The Government are therefore pleased to direct that the Jaghirdar's claim to criminal fines should be limited to ~~what is~~ realised in the Jaghir courts ~~alone and that~~ the refund bill sent by the Jaghirdar ~~may~~ be disposed of accordingly.

27/10

Secretary to Government,
Law Department.

To

The District Magistrate, Mysore.

" Comptr., ~~thro' Fl.Sectt.~~

KNN

S O.

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. P. 2321-2—Cts. 257-26-2, dated 5th November 1927.

Refund of Criminal Fines.

Passes orders in the matter of the —— to the Jaghirdar of Yelandur.

READ—

Letter No. Gl. 761-26, dated 23rd February 1927, from the District Magistrate, Mysore.

"I have the honour to state that the refund of criminal fines levied in Jaghir cases is due to the Jaghirdar as per Chief Commissioner's Proceedings No. 2115-23, dated 20th July 1910, and that when the refund bill for Rs. 1,058 was forwarded to the Comptroller in Mysore for audit, the same has been returned with the following observations, *viz.*—

(1) that the extract from the Chief Commissioner's Order does not clearly indicate under what circumstances the refund has to be allowed;

(2) that the claim extends to the period so far back as 1913 and as the authority for the refund is not definite, orders of Government may be kindly obtained in the matter; and

(3) that the certificate of refund having been noted in the departmental accounts is not furnished."

The extract from the Chief Commissioner's Order is clear. Payments of criminal fines credited were ordered to take effect from the commencement of the year 1870-71, but there is no information about the date of last refund.

Refunds made to parties is noted in departmental accounts but refunds made to the Jaghirdar under the authority of the said Government Order does not come under ordinary refunds and no certificate can be given but a receipt can be taken from the Jaghirdar and preserved permanently in this office or in the Comptroller's office.

I request that orders of Government may kindly be obtained sanctioning the refund."

ORDER No. P. 2321-2—CTS. 257-26-2, DATED 5TH NOVEMBER 1927.

The Jaghirdar of Yelandur has sent a refund bill for Rs. 1,058 on account of criminal fines levied in Jaghir cases during the years 1913-14 to 1922-23 in the Magistrate's Courts at Chamrajnagar, T.-Narsipur, Nanjangud and Yelandur. The Comptroller has taken objection to the refund bill on the ground, among others, that the authority for refund quoted in the bill, *viz.*, Chief Commissioner's Order of 1870, does not clearly indicate under what circumstances the refund has to be allowed.

2. The claim for the refund is based on the Chief Commissioner's Order No. 2115-23, dated 28th July 1870 which runs as follows:—

"The Chief Commissioner authorises the payment to the Jaghirdar of the collection made within his Jaghir under the heads Civil and Criminal Courts, Registration Office and the Local Police, the same being duly entered in the accounts. The payment will have effect from the commencement of the current year 1870-71."

3. The Chief Commissioner's Order having only authorised the payment to the Jaghirdar of the collections made within the Jaghir, there is no justification for the payment of collections made outside the Jaghir, simply on the ground that such collections were made in cases arising within the Jaghir. The Government are therefore pleased to direct that the Jaghirdar's claim to criminal fines should be limited to those realised in the Jaghir Courts. The refund bill sent by the Jaghirdar should be disposed of accordingly.

B. NAGAPPA,
Secretary to Government,
Law Department.

To—The District Magistrate, Mysore.
The Comptroller to Government.

Exd.—P.S. R. N.

W D 1116—GPB—855—14-11-27